Supreme Court, U. S.
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IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1979 No. 79-251

EARL L. SAPPINGTON, CPA, *Appellant*

v.

PAUL R. BECKERT, PRESIDENT JUDGE, et al., *Appellees*

MOTION TO DISMISS

Appeal from the Judgment of the United States District Court for the Eastern District of Pennsylvania, at No. 79-1758, Order dated July 10, 1978.

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MOTION TO DISMISS

The Appellee, the Honorable Paul R. Beckert, moves this Court to dismiss the appeal in the above entitled case on the ground that this Court lacks jurisdiction over this appeal.

STATEMENT

In this proceeding, Earl L. Sappington seeks to take a direct appeal from an order of the United States District Court for the Eastern District of Pennsylvania dismissing his civil rights complaint against the Honorable Paul R. Beckert on the grounds of judicial immunity.

Mr. Sappington's complaint sought money damages from Judge Beckert for allegedly delaying a court proceeding in which Mr. Sappington was involved.

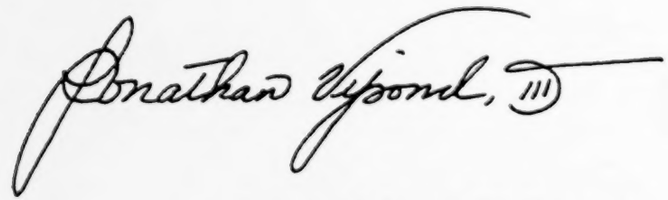
Mr. Sappington's sole contention on appeal is that judicial immunity is not applicable to suits brought under the Civil Rights Act of 1871.

ARGUMENT

United States statutes provide for direct appeals to this Court from the orders of district courts in only two instances: (1) when a district court has held an Act of Congress unconstitutional in a civil action to which the United States or any of its agencies, officers or employees is a party, 28 U.S.C. §1252; and (2) when a three-judge district court has granted or denied an injunction in a civil action, 28 U.S.C. §1253. Obviously, neither of these situations is presented here. Nor could this case be brought to this Court on a petition for certiorari. Federal law does not provide for certiorari by the Supreme Court from orders of district courts. 28 U.S.C. §1251 *et seq*. This appeal should properly be brought in the circuit court of appeals. 28 U.S.C. §1291.

CONCLUSION

For the foregoing reason, the Appellee, the Honorable Paul R. Beckert, asks this Court to dismiss this appeal.



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